



Practitioner's Docket No. 1730-3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

of _____

Inventor(s) _____

for _____

Title of Invention _____

the specification of which is being transmitted herewith

OR

In re application of: MARTINEZ FERNANDEZ, Jose Antonio

Application No.: 10/563,419

Group No.: _____

Filed: 01-04-2006

Examiner: _____

For:

SIMULATED CIGARETTE WHICH IS DESIGNED TO HELP QUELL TOBACCO
ADDICTION
Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

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TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Date: 4-13-06

Signature _____

John S. Egbert

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

- (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
- (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
- (3) Before the mailing date of a first Office action on the merits; or
- (4) Before the mailing date of a first Office action after the filing of a request for continued examination under § 1.114."

37 C.F.R. § 1.97(b).

NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. § 1.56(a).

"Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

"A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability." 37 C.F.R. § 1.56(b)

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) each inventor named in the application;

(2) each attorney or agent who prepares or prosecutes the application; and

(3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. § 1.56(c).

NOTE: The "duty as described in § 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13 -25 at 17.

WARNING: "No information disclosure statement may be filed in a provisional application." 37 C.F.R. § 1.51(d).

List of Sections Forming Part of This Information Disclosure Statement

The following sections are being submitted for this Information Disclosure Statement:

(check sections forming a part of this statement: discard unused sections and number pages consecutively)

1. ☒ Preliminary Statements
2. ☒ FORMS PTO/SB/08A and 08B (formerly FORM PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications

6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☐ Concise Explanation of Non-English Language Listed Information Items
 - 7A. ☐ EPO Search Report
 - 7B. ☐ English Language Version of EPO Search Report
8. ☐ Translation(s) of Non-English Language Documents
9. ☒ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections

, respectively, have been continued on ADDED PAGE(S).

NOTE: "Once the minimum requirements are met, the examiner has an obligation to consider the information."
Notice of April 20, 1992 (1138 O.G. 37-41, 37).

Section 1. Preliminary statements

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. § 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability (37 C.F.R. § 1.97(h)), or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

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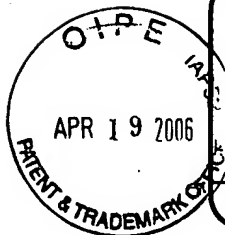
Substitute for form 1449A/PTO

(use as many sheets as necessary)

Sheet	1	of	1
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Complete if Known

Application Number	10/563,419
Filing Date	01-04-2006
First Named Inventor	MARTINEZ FERNANDEZ, Jose
Group Art Unit	
Examiner Name	
Attorney Docket Number	1730-3



U.S. PATENT DOCUMENTS

[illegible]

FOREIGN PATENT DOCUMENTS

[illegible]

Examiner
Signature

Date
Considered

¹ Unique citation designation number. ² See attached Kinds of U.S. Patent Documents. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:** Assistant Commissioner for Patents, Washington, DC 20231.



Section 6. Copies of Listed Information Items Accompanying This Statement

NOTE: 37 C.F.R. § 1.98(a)(2) requires that any information disclosure statement filed under § 1.97 shall include:
"A legible copy of:

- (i) Each U.S. patent application publication and U.S. and foreign patent;
- (ii) Each publication or that portion which caused it to be listed;
- (iii) For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
- (iv) All other information or that portion which caused it to be listed; . . . "

Legible copies of all items listed in Forms PTO/SB/08A and 08B (formerly Form PTO-1449) accompany this information statement.

(complete the following, if applicable)

- ☐ Exception(s) to above:
 - ☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.
 - ☐ Cumulative patents or publications identified in Section 5.

Section 9. Concise Explanation of English Language Listed Information Items (OPTIONAL)

NOTE: "Applicants may, if they wish, provide a concise explanation of why English-language information is being submitted and how it is understood to be relevant. Concise explanations are helpful to the Office, particularly where documents are lengthy and complex and applicant is aware of a section that is highly relevant to patentability or where a large number of documents are submitted and applicant is aware that one or more are highly relevant to patentability." Notice of April 20, 1992 (1138 O.G. 37-41, 38). See also § 609, M.P.E.P., 8th Edition.

U.S. Patent No. 4,995,407, issued on February 26, 1991 to Kossiakoff, et al., discloses an artificial cigarette is constructed with a paper stock tube plugged at both ends by a porous body and containing a quantity of beads or pellets of a vapor emitting composition where the composition includes at least one or more stress reactivity-reducing substances selected from the group consisting of nutmeg oil, mace extract, neroli oil, valerian oil, myristicin, elemicin, and isoelemicin. The contents of the tube can be augmented by filler materials and one or more substances selected from the group consisting of flavoring materials and aromatic materials.

U.S. Patent No. 3,521,643, issued on July 28, 1970 to E. Toth, discloses a cigarette-simulating inhaler having a hollow tube with an inner surface defining a set of integrally formed, inwardly extending and longitudinally elongated rigid ribs. The inner ends of the ribs are relatively sharp, and a resilient insert is positioned within the tube and gripped by the ribs to be held in place. The insert is charged with a flavoring agent which imparts a flavor to air drawn through the tube. A mouthpiece and an ash-simulating plug are secured at opposite ends of the tube. A stop member is integrally formed within the tube between the mouthpiece and insert.

U.S. Patent No. 3,320,953, issued on May 23, 1967 to S. Rindner, discloses an inhaler comprising of a tubular barrel resembling on its outer surface the outer surface of a rolled tobacco product.

U.S. Patent No. 4,429,703, issued on February 7, 1984 to Haber, discloses a cigarette

substitute assembly has the appearance of cigarette in a cigarette holder. The assembly includes a plain hollow cylindrical tube, with a mouthpiece at one end, and a plastic member at the other end which resembles the ashes on a cigarette. The assembly also includes a cartridge which may be formed of porous material in a cylindrical shape and impregnated with an aromatic substance which may include menthol, to give a pleasant smell and taste simulating inhaling a mild menthol type cigarette, when the cartridge is mounted in the assembly and air is drawn through it. A silver-colored washer may be located between the mouthpiece and the end of the white plastic tube. The two end members have inwardly extending fingers which taper slightly to make a tight fit when they are assembled with the central tube, and to grip and enclose the aromatic cartridge. The fingers may be provided with retaining protrusions to more securely hold the filter element in place, and each of these end members are provided with longitudinal passageways so that air may be drawn through the entire assembly. One end of the aromatic cartridge is therefore securely held by one of the end members; and is desired, a resilient metal or plastic element, such as a coil spring of varying diameter, may be provided to hold the other end of the aromatic cartridge centrally within the central plastic tube.

U.S. Patent No. 2,342,853, issued on August 25, 1941 to S. Furstenberg discloses a combination inhaler, cigarette filter and holder for alternative use with a cigarette, comprising: a main cylinder of an outer diameter and appearance similar to said cigarette, and having a detachable plug covered with imitation ashes, said plug being inserted in and threadedly engaging the forward end of said main cylinder.

U.S. Patent No. 4,083,372, issued on April 11, 1978 to Boden discloses a cigarette-simulating inhaler including a fluid-impermeable resiliently flexible outer tubular sheath open at

both ends and containing a wick extending longitudinally within the sheath in one end thereof and a soft puncturable liquid-containing capsule in the other end thereof, the wick and capsule being separated from each other and forming an air chamber between them. The inhaler is activated by puncturing the end of the capsule nearer to the wick and then pinching the outer sheath at the location of the capsule in order to squirt the liquid into the air chamber prior to being absorbed by the wick. The empty capsule is then discarded.

U.S. Patent Publication No. 2004/003820, published on January 8, 2004 to IANNUZZI DIANE discloses a look-alike substitute for a cigarette, from which a smokeless aroma of burning tobacco or other fragrances can be inhaled and a smoke-simulating aromatized powder can be blown out, comprises a first chamber lined with a scratch-releasable, flavor-coated paper and a second chamber filled with micrometric powder. Directionally opposite check-valves in the inlet or outlet port of the respective chambers prevent inhalation of the powder. The release of the aroma is triggered by scratching the paper with a wire brush. The flavor-holding compound is laid in helicoidal or parallel beads in order to increase the aromatized surface area. The powder is held between the threads of an axially helicoidal spline spanning the second chamber.

Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this statement is

(check each applicable item)

- (a) ☐ the inventor(s) who signs below

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. § 1.56(c))

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (c) ☐ the practitioner who signs below on the basis of the information:

(check each applicable item)

- ☐ supplied by the inventor(s).
☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. § 1.56(c))
☐ in the practitioner's file.

SIGNATURE OF PRACTITIONER

John S. Egbert
(type or print name of practitioner)

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